



Legislative Research Council

FORTY-EIGHTH INTERIM REPORT DECEMBER 2004

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EXECUTIVE BOARD

The Executive Board met seven times during the period January 2004 through December 2004: March 15, April 19, May 17, June 2, August 2, October 25, and November 22-23. At its April and May meetings, the Board established the interim program by selecting study topics and appointing study committees. The Board also made appointments to groups authorized by the 2004 Legislature: Criminal Code Revision Commission and Child Care and Early Learning Opportunities Task Force.

The Board also assigned four issue memorandums: (1) *Liquidated Costs and Surcharge Collected by the Unified Judicial System*; (2) *Medicaid—A Study Focusing on Cost Containment, Demographics and Comparison with the Systems in Other States* (3) *9-1-1-System*; and (4) *Conservation Easements*. The Board also requested a staff paper on the issue of mobile voters. The other highlights of the 2004 meetings are summarized on page 2 of this report.

The Board monitors the legislative participation in the **Council of State Governments** (CSG). The 2004 Midwestern Meeting was held in Des Moines, Iowa, July 11-14. The conference theme was *Fields of Opportunities*.

The 2005 meeting of the Midwestern Legislative Conference, scheduled for August 1-3, will be in Regina, Saskatchewan, Canada.

Legislators who served on Council of State Governments committees are listed in the Appendix to the *Interim Report*.

The Midwestern Legislative Conference's annual Bowhay Institute for Legislative Leadership Development (BILLD) was held July 30-August 3, 2004, in Madison, Wisconsin. Senator Michael LaPointe and Representatives Michael Buckingham and Daryl J. Christensen participated in this training program, which is designed exclusively for Midwestern legislators. The Bowhay Institute is named in honor of the late James Bowhay, the first director of the Midwestern Office of the Council of State Governments.

The CSG Annual State Trends and Leadership Forum was held in Anchorage, Alaska, on September 25-29. This annual gathering brings together state elected and appointed officials in all three branches of government.

In addition to the Council of State Governments, the Legislature is a member of the **National Conference of State Legislatures (NCSL)**. *The New Legislative Reality* was the theme of the 2004 NCSL Annual Meeting, which was held in Salt Lake City, Utah, July 19-23. The 2005 meeting will be held in Seattle, Washington, August 16-20.

Members of the 2004 NCSL committees can be found in the Appendix. **Senator Royal “Mac” McCracken** was elected to the National Conference of State Legislatures’ (NCSL) Executive Committee. The election was held in conjunction with the organization’s annual meeting. The Executive Committee is the governing body of the Conference. The Executive Committee and Conference officers have supervision, control and direction of the affairs of the Conference, its committees and publications and implement the policies and supervise the disbursement of its funds.

The LRC Executive Board is responsible for appointments to several groups, including the State Investment Council and the Uniform Laws Commission (ULC). At its June 2 meeting, the Board appointed Mr. Curtis J. Johnson of Pierre to a five-year term on the Investment Council. The Board also reappointed Messrs. Richard O. Gregerson (Sioux Falls) and Gene Lebrun (Rapid City) to three-year terms on the Uniform Laws Commission.

In other action throughout the year, the Executive Board:

- Awarded State Investment Officer Stephen R. Myers a bonus of \$112,053.37 for the two-year period ending June 30, 2004.
- Established incoming State Investment Officer Matt Clark's salary at \$248,900 and continued the performance bonus award plan.
- Selected the Departments of Agriculture and Public Safety for review during the 2005 interim.
- Directed staff to investigate a working framework for agency reviews.
- Received updates on the status of the 2001 redistricting lawsuit and took action directing counsel to respond to the judge's request for a remedial plan requesting the judge to certify the question of the applicability of *Emery v. Hunt* and to enter an order in the form of further direction to the Legislature with regard to appropriate range of Native American voting populations in the new districts.
- Accepted a lease proposal between South Dakota and Gateway for notebook computers for legislators and recommended a paper reduction effort for the upcoming legislative session.
- Awarded the legislative printing contract for the 2005 Legislative Session to State Publishing Company of Pierre. In other legislative session business, the Board awarded the 2005-2006 photographer contracts to Samuels Studio of Rapid City; waived the fee for use of legislative committee rooms during the session; and authorized a Doctor-of-the-Day Program.
- Requested that the Department of Legislative Audit conduct a mini review of *No Child Left Behind*.
- Directed the Department of Legislative Audit to conduct a review of the Highway Safety Program.
- Appointed the chairs of the Senate and House Standing Education Committees (Senator Ed Olson and Representative Phyllis Heineman) as South Dakota's delegates to the Education Commission of the States.
- Declined membership in the Midwestern Higher Education Compact.
- Approved the hiring of an FTE to provide economic forecast information to the Legislature.

- Approved funding in the amount of \$500,000 for a state-of-the-art conference room for the Legislature.
- Appointed legislators to serve on a Motor Vehicle Task Force, West River Issues Working Group, and Agricultural Machinery Dealer Franchise Subcommittee.
- Recognized outgoing members Representatives Rebekah Cradduck, Claire Konold, and Gerald Lange, and Board Chair Representative Orville Smidt.

In addition, the Executive Board served as the interim Bonding Committee. The committee met on November 22 and 23 to review the operations, programs, and financial conditions of the various state authorities and agencies authorized to incur debt. The committee received the annual reports from and asked questions of the representatives of the following: the South Dakota Housing Development Authority, the South Dakota Building Authority, the South Dakota Health and Educational Facilities Authority, the South Dakota Economic Development Authority, the South Dakota Conservancy District, and the South Dakota Value Added Finance Authority.

Staff members to the Bonding Committee included: Fred Baatz, Principal Research Analyst; and Teri Retrum, Senior Legislative Secretary.

The Executive Board is responsible for the entire interim research program of the Legislative Research Council. The several committees, working within the framework of the Legislative Research Council, have submitted their summaries in this report and will submit their legislative recommendations to the 2005 Legislature.

Listing of Executive Board Members

Members: Representative Orville B. Smidt, Chair; Senator Ed Olson, Vice Chair; Senators Arnold M. Brown, Tom Dempster, H. Paul Dennert, Brock L. Greenfield, Gil Koetzle, and Royal “Mac” McCracken; and Representatives Julie Bartling, Rebekah Cradduck, Phyllis M. Heineman, Claire B. Konold, Gerald Lange, Matthew Michels, and Ron Williamson.

Staff members: James A. Fry, LRC Director; Yolonda J. Soyer, Administrative Assistant; Teri Retrum, Senior Legislative Secretary; and Reta Rodman and Kris Schneider, Legislative Secretaries.

APPROPRIATIONS COMMITTEE

Study Assignment

A continuing review of the appropriations process.

Summary of Interim

The Special Committee on Appropriations, in accordance with chapter 4-8A and §§ 4-8B-10 and 4-8B-10.1, approved additional appropriations of \$27.4 million and 132.9 FTE in FY 2004. For FY 2005, the Committee approved an additional \$1.8 million and 16.1 FTE.

The Committee met on June 14, 2004. The following additional appropriations were approved:

State Veterans' Home, Department of Military and Veterans' Affairs: \$61,000 from other funds, in FY 2004, for nursing care overtime (\$44,365) and retirement payouts (\$16,635).

Department of Public Safety: \$4,000,000 from federal funds, in FY 2004, for homeland security. The state reimburses counties and other local government units for the acquisition of equipment that is to be used for homeland security.

Department of Human Services: \$836,961 from federal funds, in FY2004 and FY 2005, to be used for: (A) the Division of Alcohol and Drug Abuse (\$499,549) for improving the capacity and long-term development of the alcohol and drug abuse prevention system; (B) the Division of Alcohol and Drug Abuse (\$198,768) due to an increase in the federal block grant which funds substance abuse, prevention and treatment services; and (C) Medicaid (\$138,644) due to a higher percentage of Title XIX eligible individuals.

Board of Regents: \$22,483,169 from all funds and 132.9 FTE, in FY 2004, primarily for grant research at the following institutions:

Institution	Federal Funds	Other Funds	Total	FTE
Black Hills State University	\$1,000,000	\$0	\$1,000,000	13.3
Dakota State University	954,000	-	954,000	0.0
Northern State University	529,000	-	529,000	5.4
SD School of Mines & Tech.	1,300,000	-	1,300,000	10.8
SD State University	3,000,000	6,956,500	9,956,500	40.0
Ag Experiment Station	950,000	-	950,000	0.0
University of South Dakota	1,613,971	2,307,724	3,921,695	25.0
USD School of Medicine	2,545,240	570,734	3,115,974	36.4
Board of Regents	-	756,000	756,000	2.0
Total	<u>\$11,892,211</u>	<u>\$10,590,958</u>	<u>\$22,483,169</u>	<u>132.9</u>

On October 14, 2004, the Special Committee, via telephone conference, also approved \$414,121 from federal funds and 14.1 FTEs for the Department of Agriculture, in FY 2005, to create a second fire prevention hand crew that will work on fuel mitigation projects and wildfire responses within Custer State Park and the Black Hills.

On December 8, 2004, the Special Committee approved the following additional appropriations:

Animal Industry Board: \$160,000 from federal funds which includes \$60,000 for the testing of breeding rams for evidence of resistance to scrapie and \$100,000 for the surveillance of chronic wasting disease.

Attorney General: \$100,000 from federal funds and 2.0 FTEs for the Northern Plains Safe Trails Task Force which will focus on drug interdiction of drug trafficking and violent crime in Indian Country.

Department of Human Services: \$250,000 from federal funds to assist families and communities in supporting individuals with developmental disabilities.

Listing of Legislation Adopted

A Subcommittee on FTEs met during the interim and proposes the following legislation for adoption:

An Act to revise certain provisions regarding appropriations.

Summary of Meeting Dates & Places and Listing of Committee Members

The Special Committee met on June 14, October 14, and December 8. The Committee created a Subcommittee on FTEs which met on June 14 and November 12.

Committee members included: Senators Jerry Apa (Co-Chair), H. Paul Dennert, Robert N. Duxbury, William F. Earley, Brock L. Greenfield, Mike Jaspers, Marguerite Kleven, William M. Napoli, and Duane Sutton (Vice-Chair); and Representatives J.E. "Jim" Putnam (Co-Chair), Stanford M. Adelstein (Vice-Chair), Julie Bartling, Quinten L. Burg, Rebekah Cradduck, Mary Glenski, Ted A. Klaudt, Orville B. Smidt, and Ron Williamson.

Staff members included: Reed Holwegner, Chief Fiscal Analyst; Mark Zickrick, Principal Fiscal Analyst; Anne Mehlhaff, Principal Fiscal Analyst; Sue Cichos, Senior Fiscal Analyst; Aaron Olson, Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

CODE COMMISSION (SOUTH DAKOTA)

Study Assignment

The Code Commission supervises the publication of the *South Dakota Codified Laws*, corrects errors to the code, assists the code counsel, makes recommendations to the Legislature, and contracts for replacement volumes.

Summary of Interim

This marks the conclusion of the first year with the new publisher of the code, Thomson West. The company has been very responsive to the needs of the Legislative Research Council regarding the management of the State's statutory database. A few minor problems regarding the print version of the code were quickly addressed by West.

Listing of Legislation Adopted

The Commission will propose the annual legislation to update SDCL 2-16-13, the publications constituting the official code.

An Act to correct certain references to certain errors and omissions relating to departments, codification and placement of statutes in the code.

Summary of Meeting Dates & Places and Listing of Committee Members

The Code Commission met two times during this interim to address routine matters. Both meetings were held in Pierre. The first meeting was held on April 15, 2004, at the Capitol building and the second meeting was held on June 18, 2004, at the Ramkota River Centre in conjunction with the South Dakota State Bar Association's annual meeting.

Commission members are Michael DeMersseman (Chair), Senator Eric Bogue (Vice-Chair), Representative Matt McCaulley (*resigned legislative seat on May 10, 2004*), Tom Lee, and Lee McCahren.

Staff members were Doug Decker, Code Counsel, and Kris Schneider, Legislative Secretary.

EDUCATION AGENCY REVIEW COMMITTEE

Study Assignment

An agency review of the Department of Education, pursuant to SDCL 1-26E-2.

Summary of Interim

The committee met three times over four days at the State Capitol in Pierre. Members heard an overview from the directors of each division within the department. They posed extensive questions to each division and reviewed the answers to them. The committee took public testimony from a variety of individuals who have worked with the department, and they delved into issues such as *No Child Left Behind* and its impact on the state, the validity of the state's assessment tools, and the availability of distance learning opportunities.

Senator Olson kicked off the work of the committee by commenting on the major developments that have taken place within the Department of Education in recent times. These include the hiring of a new secretary, the reorganization of the department, and the implementation of *No Child Left Behind*.

Dr. Rick Melmer, Secretary of the Department of Education, began the review by highlighting the department's seven areas of primary focus. They include: high quality schools, professional development, high school initiatives, effective communication, early childhood, education service agencies, and Native American education. He noted that two main goals of the department are to emphasize customer service and to do a better job of communicating both within and outside the department. He was followed by members of his management team, who described the functions carried out by their individual divisions and the current projects on which they are working.

Later, those same management team members were called upon to answer a series of questions in writing. The questions focused on such issues as funding sources, division regulation, long- and short-term needs, and the challenges that each division faces. Several division directors mentioned that finding and maintaining qualified staff is difficult. They indicated that some positions are hard to fill because of the expertise required. Salary levels and the need to relocate to Pierre can also be hindrances in finding employees. Also, often those with the teaching skills that the department finds desirable would rather continue to work as a teacher for nine months a year than to work year round within the agency.

The committee took testimony from a variety of presenters on the experiences they have had with the department. Glenna Foubert, President of the SD Board of Education; Dan Guericke of the Mid-Central Educational Cooperative; Jim Parry of Technology and Innovation in Education; John Pederson, Superintendent of the Pierre Public Schools; Ryan Wise with Teach for America; and Donna DeKraai of the SDEA all spoke very highly of the current department staff and noted that their experiences with the Department of Education have been beneficial and positive.

Dr. Barbara Plake, the Director of the Buros Center for Testing at the University of Nebraska in Lincoln, provided members with an evaluation of the state's main assessment tool, the Dakota STEP test. According to Dr. Plake, the Dakota STEP test aligns to the established state content standards rather well, though a few areas need improvement. She suggested

that the state needs to determine if students have had an ample opportunity to learn by analyzing how the curriculum aligns to the content standards and tests. When questioned about how high the standards for students should be set, Dr. Plake noted that standards setting is a policy decision. Some states have high standards and others set them quite low in an attempt to avoid the sanctions associated with *No Child Left Behind*.

Martin Guindon, the Auditor General, and Gary Hoscheid with the Department of Legislative Audit presented to the committee a report on *No Child Left Behind* (NCLB). The report is available on the Legislative Audit Web site at http://www.state.sd.us/legislativeaudit/NCLB/NCLB_homepage_report_all.htm. The committee wanted to examine how much federal funding was coming to the state for NCLB and how much its implementation was costing the school districts in the state. Mr. Guindon, however, was quick to point out that it is nearly impossible to calculate the costs at this point in time because NCLB is still in its infancy. He also noted that making state-to-state comparisons on NCLB is also close to impossible. This is due to a number of factors, including differences in standards, student populations, and student achievement prior to the implementation of NCLB. Mr. Hoscheid commented that all public schools and school districts are accountable for the performance of their student subgroups which include students with limited English proficiency, students with disabilities, and students in major ethnic/racial subgroups. Due to privacy concerns, however, each subgroup must have at least ten members before it is counted. Thus, as Mr. Guindon pointed out, there are a lot of small subgroups in the state that are not being rated because of their size.

The committee also heard from Dr. Doreen Gosmire, who is an Assistant Professor in Educational Administration at the University of South Dakota. She focused on distance learning in the state. According to Dr. Gosmire, South Dakota has 16 providers of distance education courses, and they serve about 2300 students. Most of the providers offer common high school courses, while a few of them offer advanced placement courses or dual credit opportunities whereby students can earn college credit while still in high school. Most providers use web-based or Internet instruction. The funding for distance learning is provided by the federal government, state government, and through tuition and the support of private foundations. Most of the evaluative data currently available on distance learning providers is self-reported.

As the committee progressed through the review process, the members found themselves struggling to ask the right questions that would allow them to adequately review the agency. At the same time, they learned that the department has been working with Gloria Steele and others at Technology and Innovation in Education (TIE) in Rapid City to utilize the Baldrige Model as an internal evaluation tool. The Baldrige Model has applications in business, education, government, and other organizations. It is comprehensive, takes time and training to implement, and has a proven track record nationwide. It allows for decision-making based on proven results.

Staff members from the Department of Education who have begun using the Baldrige Model addressed the committee. They cited examples of how the Model is helping them more closely align their work plans to the department's overall priorities. Though they have only been using the Model since June, their experiences so far have been positive.

Upon a recommendation from Senator Olson, the committee voted to submit a letter to the LRC Executive Board suggesting the Baldrige Model as an evaluation tool for other

departments of state government and also for the Legislature as it continues to conduct agency reviews in the years ahead. Committee members believe the Model would provide the Legislature's agency review process with the consistency and clarity that it currently lacks.

With that decision, the committee concluded its work.

Listing of Legislation Adopted

None.

Summary of Meeting Dates and Listing of Committee Members

The following members of the South Dakota Legislature were appointed to the committee: Senator Ed Olson, Chair; Representative Phyllis Heineman, Vice Chair; Senators Al Kurtenbach and John J. Reedy; and Representatives Julie Bartling, Jim Bradford, Joel Dykstra, Burt Elliott, Kent Juhnke, Ted Klaudt, Maurice LaRue, Ed McLaughlin, Kathy Miles; and Bill Thompson.

The Committee met at the State Capitol in Pierre on the following dates: June 15, 2004; September 1, 2004; and September 22-23, 2004.

Staff members were Clare Cholik, Senior Research Analyst; Mark Zickrick, Principal Fiscal Analyst; and Reta Rodman, Legislative Secretary.

GOVERNMENT OPERATIONS AND AUDIT COMMITTEE

Study Assignment

The Government Operations and Audit Committee was established by South Dakota Codified Laws (SDCL) 2-6-2. The Committee is appointed at each regular session of the Legislature. The Committee consists of ten members, five members from the Senate appointed by the President Pro Tempore of the Senate, one of whom shall be a member of the Judiciary Committee and five members from the House appointed by the Speaker of the House, one of whom shall be a member of the Judiciary Committee.

The responsibilities of the Committee are:

- To inquire and review any phase of the operations and the fiscal affairs of any department, institution, board or agency of the state;
- To examine records and vouchers, summon witnesses, examine expenditures and the general management of departments, as deemed necessary;
- To review any findings of abuse or neglect in a juvenile corrections facility;
- To make a continuing study of the operation of the state's correctional system; and,
- To make a detailed report to the Senate and House of Representatives and submit a copy of its report to the Appropriations Committee of each House of the Legislature at the next succeeding session of the Legislature or any special session of the Legislature upon request of the body.

Committee Activity

The Committee conducted the following review and study activities during 2003:

- Reviewed audit reports;
- Reviewed General Fund contract encumbrances;
- Reviewed the functions of selected state offices.

Summary of Interim

Reviewed Audit Reports

The Committee reviewed the South Dakota Single Audit Report for the fiscal year ended June 30, 2003 and separately issued audit reports issued during 2004. The following summarizes the actions that were taken by the Committee.

Financial and compliance audits involve testing financial transactions of the state to determine that all money is properly accounted for and expended in accordance with state and federal laws and regulations. All audits conducted on state agencies were consolidated and reported in the Single Audit Report. The Single Audit Report includes the Comprehensive Annual Financial Report for the State of South Dakota prepared by the Bureau of Finance and

Management, a schedule showing the federal awards administered by the state and related expenditures, and audit findings and recommendations issued by the Department of Legislative Audit.

The Single Audit Report was issued in accordance with Auditing Standards Generally Accepted in the United States of America, Government Auditing Standards issued by Comptroller General of the United States and South Dakota Codified Laws. A copy of this report may be obtained from the Department of Legislative Audit.

The Committee reviewed financial reporting, internal control and compliance deficiencies written on 5 state organizations, containing 15 recommendations for corrective action. One recommendation related to violations of state laws and regulations; seven recommendations related to violations of federal laws and regulations; and, seven recommendations related to inadequate internal control procedures over receipts, revenue collections and expenditures and financial reporting.

The following represents the state agencies with audit findings and recommendations from fiscal years 2003 and 2002 and the implementation of fiscal year 2002 audit recommendations:

	RECOMMENDATIONS		
	<u>Fiscal Year 2003</u>	<u>Fiscal Year 2002</u>	<u>FY2002 Implemented</u>
Commerce, Department of, Licensing and Regulatory Boards & Commissions Electrical Commission	N/A*	3	N/A
Corrections, Department of	0	1	1
Governor, Office of the	0	2	2
Education, Department of	1	0	N/A
Housing Development Authority	1	0	N/A
Military and Veterans Affairs, Department of	4	7	4
School and Public Lands	2	0	N/A
Social Services, Department of	7	7	2

N/A* This audit is on a two-year audit cycle and did not have a FY 2003 audit.

The Committee sent letters to two state agencies with audit findings and encouraged the state agencies to implement the audit recommendations. The Committee requested one state agency with audit findings to attend the next committee meeting to discuss the audit findings. The committee requested the Department of Legislative Audit to obtain additional information on an audit finding for one state agency. The Committee continues to monitor the responses and corrective actions taken by state agencies.

Representatives from the Archeological Research Center attended a committee meeting to discuss a funding issued addressed in the Single Audit Report. Representatives from the Center provided an overview of the functions of the Center and the approach they plan to take to correct the funding issue.

Reviewed General Fund Contract Encumbrances

The committee completed a review of general fund contract encumbrances that were in effect during fiscal year 2004. The general fund contract encumbrances included four fiscal year 2002 general fund contract carryovers totaling \$2,522,363 and 16 fiscal year 2003 general fund contract carryovers totaling \$15,056,159.

The committee also reviewed general fund contract carryovers that are in effect during fiscal year 2005. The general fund contract encumbrances include two fiscal year 2003 general fund contract carryovers totaling \$1,218,516 and thirteen general fund contract carryovers from fiscal years 2004 totaling \$13,767,173. The committee requested additional information on three fiscal year 2004 contracts.

Reviewed the Functions of Selected State Agencies

DEPARTMENT OF PUBLIC SAFETY--HOMELAND SECURITY GRANT

The Department of Public Safety provided the committee with background on the Homeland Security Grant. The committee was informed that Homeland security grant money can be used for natural disasters, law enforcement and search and rescue operations, in addition to homeland security activities. The committee's review included a review of equipment purchases and the granting of money to local governments.

BOARD OF REGENTS--EXECUTIVE SESSIONS

The committee reviewed the use of executive sessions by the Board of Regents and the process used in taking action on issues discussed in executive session. A review of executive session items made by Attorney General Larry Long and Mr. James Shekleton, Board of Regents, determined that the items discussed in executive session were allowable topics for executive sessions. The committee sent a letter to the Board of Regents recommending each action taken by the Board be a separate motion and a separate vote.

BOARD OF REGENTS--DAKOTA STATE UNIVERSITY, TECHNOLOGY OUTREACH SERVICES (TOS)

The committee reviewed the functions and funding of the TOS, formerly known as the Business Enterprise Institute. The committee addressed the following: the organizations mission statement; goals and objectives; the business plan, including projected services; to whom those services would be provided; the funding sources to be utilized; the organizational structure; staffing levels; and, a projected operating budget.

BUREAU OF INFORMATION AND TELECOMMUNICATIONS--STATE RADIO

The Bureau provided testimony regarding the use of the state radio system. The committee was concerned with policies related to state radio use versus cell phone use. The committee was informed that the state radio system was not intended to be used in the same manner as a cell phone. There were 10,203 state radios with 47% local government traffic. The state radio system covers radios for K-12 school buses. School buses use radios that are on the low-band system

BUREAU OF INFORMATION AND TELECOMMUNICATIONS--CELL PHONE USAGE

The committee conducted a review of cell phones provided to state employees. The review covered state agency policies on cell phone usage and the level of review of cell phone use. The review of agency procedures identified that the level of review for determining a need for a cell phone ranged from a bureau commissioner to an employee supervisor. For those agencies where the determination was made at a supervisor, division or university department level, the policies did not always address uniform or specific criteria for making decisions. We noted the same inconsistencies in policy relating to what cell plan to purchase, when upgrades to the standard cell phone are authorized and the purchase of additional equipment. Policies regarding the use of cell phones ranged from state business only to allowing use for emergencies, employees calling home when traveling out of town and for immediate family concerns. The review of cell phone usage identified that 22 of 692 cell phones were not used during a six-month period. An additional forty cell phones averaged from 1 to 10 minutes of usage per month.

During the review, the Bureau entered into a new cell phone contract. The Bureau projected the new contract would result in an annual savings of \$221,000 because of lower rates and a reduction of extra use charges.

The committee requested that the Senior IT committee provide the committee with regular updates on cell phone usage. The committee also directed the Department of Legislative to communicate the above findings to the state agencies that were included in the review.

DEPARTMENT OF CORRECTIONS--PRISON CONSTRUCTION

The Department of Corrections provided an update on prison construction projects. The committee was informed that the original site at Rapid City was contaminated with methane gas. The new site will cost \$225,000. The Department was using a temporary site that held eighty to eighty five inmates and had fifteen staff.

JUVENILE CORRECTIONS, LEGISLATIVE RESEARCH COUNCIL

The Committee met in Custer at the STAR Academy operated by the South Dakota Department of Corrections. The STAR Academy is a juvenile offender facility that typically houses over 200 children who have been sentenced to the Department of Corrections by the courts. The Committee invited all parents and/or guardians of juveniles in the Corrections system to testify on their experiences with the Department. The committee heard from four individuals and received one letter that was entered in the record. The committee met in executive session with two of the parents and requested the Department to follow up with the complaints.

The Committee heard testimony from John Ellis, the Juvenile Corrections Monitor (JCM). He presented the semi-annual report detailing complaints received at the state owned juvenile corrections facilities. The JCM must immediately notify the Governor, Department of Corrections Secretary, and the Government Operations and Audit Committee in writing of any substantiated abuse or neglect. From January 1, 2004 through June 30, 2004, the JCM received 104 complaints from students, parents, and other interested parties. Of the 104 complaints, seven resulted in a full investigative report. The monitor could substantiate either abuse or neglect in two of the seven cases. In both of the cases, medical staff had neglected

to provide proper medical attention in a timely fashion. The Department of Corrections and the Department of Health have addressed these issues.

BUREAU OF FINANCE AND MANAGEMENT--REVIEW OF CASH BALANCES

The committee reviewed information provided by the Department of Legislative Audit regarding cash balances in indirect cost funds and other federal funds. The report indicated that federal reimbursements of State General Fund expenditures were deposited in federal funds rather than the State General Fund. The Bureau provided testimony regarding the process relating to federal reimbursements and the process used to budget for the expenditure of the related cash balances. The Legislative Research Council addressed a budgetary issue regarding the lack of legislative budgetary oversight of resource in these funds that are available for future obligations. This review resulted in the committee approving three draft legislative bills to be presented to the Executive Board of the Legislative Research Council.

Listing of Legislation Adopted

An Act to require certain financial information to be reported to the Legislature.

This act would require the Bureau of Finance and Management to report unreserved balances for each fund in the state treasury that receives indirect cost reimbursements from the federal government.

An Act to direct the deposit and appropriation of certain federal reimbursements.

This act would require indirect cost reimbursements received from the federal government be deposited in the fund that incurred the costs being reimbursed and require the State Treasurer to transfer cash balances in federal funds that have accumulated due to indirect cost reimbursements to the fund that incurred the indirect cost expenditures. The bill would also allow adjustments to the general appropriations act for the previously stated requirements.

An Act to provide for the budgeting of financial resources available to the state.

This act defines the contents of a condition statement. The act would amend current law by requiring a condition statement for all indirect cost reimbursement funds, requiring condition statements for all budget units that do not receive state general funds and establishing when the condition statements must be submitted to the Legislative Research Council.

The eighth meeting of the Government Operations and Audit Committee was held on December 7, 2004, in Pierre.

The committee was informed that the report of the Government Operations and Audit Committee for 2004 had been submitted to the Executive Board and there were no changes by any committee member.

Committee members received an update on 2004 encumbrances and a listing of audit reports issued in 2004.

An overview on the definition and identification of statutorily created funds and funds being accounted for as other funds and federal funds on the state accounting system was provided.

Information relating to the fiscal year 2004 revenues, expenditures, transfers, year-end cash and investments balances for these funds was provided to the committee members and committee questions were addressed.

Summary of Meeting Dates and Places and Listing of Committee Members

The Committee met on May 18, June 22, September 13, October 25, and December 7, 2004. All meetings were held in Pierre except the September 13 meeting, which was held at the Star Academy in Custer, South Dakota.

Committee members were: Senator Marguerite Kleven, Chair; Representative Ted A. Klautt, Vice Chair; Senators Arnold M. Brown, J.P. Duniphan, John Koskan, and Garry A. Moore; and Representatives Rebekah Craddock, Margaret V. Gillespie, Claire B. Konold, and Gerald Lange.

Staff members from Legislative Audit were Marty Guindon, Auditor General; Rich Hornak, Audit Manager; and Gary Hoscheid, Audit Manager. Staff member from Legislative Research Council was Annie Mehlhaff.

INFORMATION AND TELECOMMUNICATIONS AGENCY REVIEW COMMITTEE

Study Assignment

An agency review of the Bureau of Information and Telecommunications, pursuant to SDCL 1-26E-2.

Summary of Interim

The first meeting of the interim Bureau of Information and Telecommunications Agency Review Committee was held on Tuesday, June 15, 2004, at the State Capitol Building in Pierre, South Dakota. Chairman Putnam distributed a letter from the Executive Board of LRC that directed the committee to "undertake an analysis of the digitization of South Dakota Public Broadcasting" in addition to the sunset process. Following other opening remarks by the chair and vice-chair, the entire committee toured the State Radio Center and the Data Center. The meeting reconvened and Mr. Reuben Bezpaletz, Chief Analyst for Research and Legal Services, Legislative Research Council, reviewed an outline of a typical study plan for interim sunset committees and gave a historical perspective of the sunset process.

Commissioner Otto Doll began the Bureau of Information and Telecommunications presentation and discussed with the committee the bureau's mission, strategic plan, and responsibilities. Ms. Julie Anderson, Public Broadcasting Director, gave a brief history of public broadcasting in South Dakota, explained the oversight of SDPB, and provided budget information within the division. Mr. Jerry Gooding, Data Center Director explained that the Data Center manages and operates the state's production systems. Mr. Gooding also discussed the charge-back mechanisms used to fund the Data Center and the rest of BIT. Mr. Jim Edman, Network Technologies Manager, stated that the Telecommunication Division's goal is to provide an efficient and high level of customer service for voice, video, and data telecommunications. The division's responsibilities and services are engineering, network technologies, and local area network (LAN) services and are provided to the executive, legislative, and judicial branches, the constitutional offices, K-12 schools, the Board of Regents, municipalities, counties, the federal government, and tribal schools. Ms. Denise Luckhurst, Development Director, explained that Development writes the applications that run on the platforms and networks, the steps involved with programming requests, and development rates compared to other states. Commissioner Doll concluded the presentation with a discussion about the evolution of BIT, the history of BIT's budget, state and federal statutes required by the central service agency, and the IT decision making process.

The second meeting of the interim Bureau of Information and Telecommunications Agency Review Committee was held on Monday, August 16, 2004, at the State Capitol Building in Pierre, South Dakota. Chairman Putnam summarized the direction in which the Executive Board wished the committee to proceed which includes the analysis of the digitization of South Dakota Public Broadcasting and the sunset process.

Commissioner Doll began his presentation by referring to the questions submitted to him at the June 15, 2004 meeting. Some of the topics discussed were tower leases, tower maintenance costs, the Senior IT Committee, and contracts.

The main focus of the second meeting was to hear testimony about South Dakota Public Broadcasting (SDPB) and the conversion to digital television. Commissioner Doll and Julie

Anderson, Public Broadcasting Director briefed the committee on the federal mandate for switching SDPB from analog to digital including conversion costs, maintenance costs, and how it will effect the consumer. Mr. John Lawson, President of the Association of Public Television Stations, discussed what Congress is doing for the digital conversion in regards to funding and mandate guidelines. Mr. Rod Bates, President of Nebraska Educational Television, discussed the similarities and differences between Nebraska and South Dakota in terms of funding and plans for digital television. Mr. Jack Hanson, former General Manager of KSFY, gave insight to what this federal mandate has meant to commercial broadcasting stations. The public testimony concluded with Ms. Glenda Woodburn testifying on behalf of the South Dakota Board of Directors for Educational Telecommunications and Ms. Sue White testifying on behalf of the Friends of Public Broadcasting.

The third meeting of the interim Bureau of Information and Telecommunications Agency Review Committee was held on Monday, October 4, 2004, at the State Capitol Building in Pierre, South Dakota. Commissioner Doll discussed the TV Survey compiled by the Business Research Bureau. The survey showed that approximately 300,000 people watch South Dakota Public Television (SDPTV). Commissioner Doll explained the various methods of receiving the signal that enable a person to view SDPTV programs; they are cable, satellite, or using an outdoor antenna.

The committee discussed BIT's policy for discarding old or outdated equipment, the credits or savings that BIT has received through industry level service agreements, a comparison of IT spending in other states, and project requests reviewed by the Senior IT Committee.

Commissioner Doll briefed the committee on three issues that BIT may want to address in the future. The first two issues deal with cleanup legislation for the State Radio System and the Rural Development Telecommunications Network (RDTN). The last issue was more of a policy change whereas BIT would begin to offer services to non-profits and tribes.

At this time discussions will include an evaluation of BIT, committee suggestions or directives to BIT, and the final report of committee findings which will be submitted to the Executive Board.

The fourth and final meeting of the interim Bureau of Information and Telecommunications Agency Review Committee was held on Friday, November 5, 2004, at the State Capitol Building in Pierre, South Dakota.

Commissioner Doll distributed and discussed a handout concerning BIT statutes that should be cleaned up. He proposed that since the Rural Development Telecommunications Network (RDTN) was replaced by the Digital Dakota Network (DDN) in the late 1990's and because the Rural Development Telecommunications Board was now defunct, that the RDTN be replaced by the DDN and that the statutes regarding the defunct board be repealed.

Commissioner Doll also proposed that since BIT has accomplished the creation of the statewide Radio System and the move of the dispatch centers to the Department of Public Safety, the language seeking a plan for integrated telecommunications functions and facilities should be repealed.

Both proposals were drafted and adopted into the final report.

Mr. Olson presented a brief comparison of BIT with the Michigan Department of Information Technology and the Virginia Information Technologies Agency.

The meeting concluded with committee discussion and directives to BIT. The committee directed BIT to continue to work with bordering states to provide educational and emergency broadcast services. The committee also requested that BIT provide, to the Legislative Research Council, a quarterly summary of projects that the Senior IT committee has reviewed for a two year period that show how the money is being spent.

The committee recommends to the Executive Board that the Bureau of Information and Telecommunications be continued; having found the bureau met the burden of establishing sufficient public need is present to justify its continued existence.

Listing of Legislation Adopted

- An act to revise certain references to the Rural Development Telecommunications Network language with appropriate references to the Dakota Digital Network.
- An act to repeal certain obsolete provisions relating to a plan for integrated telecommunications functions and facilities.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met on June 15, August 16, October 4, and November 5 in the State Capitol in Pierre.

Committee members were: Representative J.E. "Jim" Putnam, Chair, Senator John Koskan, Vice Chair; Senators Jerry Apa and Dick Kelly, Representatives Mike Buckingham, Tom Hackl, Elizabeth Kraus, Gordon Pederson, Donna Schafer, David Sigdestad, and Paul Valandra.

Staff members were: Aaron Olson, Fiscal Analyst; Kris Schneider, Legislative Secretary; and Reta Rodman, Legislative Secretary.

PROPERTY ASSESSMENT STUDY COMMITTEE

Study Assignment

A study concerning the impact of the limitation on sales used to value property and the potential impacts if changes are made to the factors used to limit sales to value property. Certain sales are not included in the sales ratio studies to determine assessed valuations based on criteria established by statute. The study shall examine the shifts that may occur from one classification to another, county by county and statewide, if these criteria are amended. The study shall also consider alternative methods used to assess property, including an analysis of methods used by other states.

Summary of Interim

The interim Property Assessment Committee held its first meeting on June 9. Mr. Michael Kenyon, Director of the Division of Property and Special Taxes, and Ms. Colleen Skinner, Department of Revenue and Regulation, explained that it is the director of equalization's responsibility to appraise all property within their jurisdiction at its full and true market value and to treat every property owner equally and fairly under the law.

Mr. Kenyon stated that one of the critical elements in valuing property is sales and when there is a lack of sales, it affects the assessment process. There are three rules enacted by the Legislature that assessors must apply to the assessment process when determining what sales may be used in determining the market:

- 70 acres rule – The 70 acres rule (§ 10-6-33.20) means that the assessor may not use the sale of agricultural land to value other agricultural land if 70 acres of land or less is sold. In 2003, 225 agricultural sales were rejected statewide because of the 70 acres rule, compared to 49 rejections in 1998.
- NA-Z – The NA-Z classification (§ 10-6-33.14) states that if any agricultural land sells for more than 150% of its agricultural income value, the property is classified as NA-Z and is taxed for one year at the value the property was sold. The following year the property is classified and assessed according to its current use. The NA-Z sales are not used for market comparisons. In 2003, 696 agricultural sales were rejected statewide because of the NA-Z rule, compared to 319 rejections in 1998.
- 150% rule – The 150% rule (§ 10-6-74) throws out both agricultural and non-agricultural sales when property sells for more than 150% of its assessed value. The assessor may not use these sales for market comparisons. In 2003, 287 agricultural sales were rejected pursuant to this rule, compared to 2 in 1998. There were 2,469 non-agricultural sales rejected in 2003, compared to 27 in 1998.

Mr. Kenyon stated that number of sales available to use in the assessment process continues to decrease. In 2003, fifty-one of the sixty-six counties had less than ten usable agricultural sales per county. Another factor limiting the number of usable sales is that seventy-five percent of the statewide sales are not-arms-length transactions and are not used for assessing property. The assessor has to have at least fifteen usable sales over a three year period to establish the market for agricultural land. If a county does not have fifteen usable sales, then the assessor may bridge to other counties or use the agricultural income approach as provided in § 10-6-33.24.

Mr. Deene Dayton, Legislative Audit, also spoke to the committee and distributed a handout entitled "Property Tax Limitations" and explained that the tax limitation impacts the property tax levy in dollars, not the local government's budget. The impact of the tax limitation varies for each entity because the portion of the budget financed by property taxes varies from local government to local government.

The interim committee focused attention at the August 16 and 17 meeting on the science and practice of assessing real property as explained by several experts in the field. The committee also reviewed alternative methodologies for arriving at property values that are used in other states. It was also explained that there are no property tax breaks, but only tax shifts.

In discussing the effects of the 150% throw-out rules for sales of real property, the Revenue Department presented statistical information which disclosed a disparity in some counties between the levels of assessment of agricultural property compared to non-agricultural property. This throw-out rule creates significant disparities between some counties, meaning that property owners across the state are not always treated equally. However, the disparities do not always favor agricultural property. The exclusion of certain sales because of the 150% rules means some counties appear poorer than they really are for purposes of the school funding formula.

Members received a briefing on the use of rental income to value agricultural property. Following that briefing was a discussion concerning the most effective method to acquire valid rental income data and to determine a fair capitalization rate when computing accurate values. There was testimony indicating that the sales prices of property were rising faster than rental rates because land is now seen as an attractive investment opportunity. Arguably, this means that land valued through a method based upon rental information would more closely approximate the productive value of land. Members also heard testimony regarding the 7.75 percent cap rate and the use of soil surveys in determining how properties are valued when the income approach is used. Concern was expressed that the effective cap rate is too high and does not reflect the market value of land. Interested parties also testified that reliance on the soil survey is too extensive under the income approach and that other factors including topography, obstructions (primarily rocks) and rainfall must be given greater weight.

The directors of equalization were actively involved in the interim by making presentations, responding to committee questions, and commenting on draft legislation. The directors provided information on the concerns with the factors limiting sales, their experiences, and current trends.

The third meeting of this study committee was held on September 13 and 14 and was devoted to the review of proposed legislation concerning property tax classifications and the factors and methods used to assess property.

The committee reviewed fifteen legislative proposals and approved eight.

Listing of Legislation Adopted

1. *An Act to revise the requirements for determining whether dwellings are eligible to be classified as owner-occupied single-family dwellings.* The legislation clarifies that each married couple may only claim one home as owner-occupied and that a home must be the owner's principal place of residence.

2. *An Act to establish certain presumptions concerning real property sales used to value property.* That all sales of property are presumed to be arm-length transactions until documented otherwise.
3. *An Act to revise the procedure for assessing agricultural property and to repeal certain factors used to determine which sales may be used in assessing property.* The proposed legislation mandates the use of production income as the means to value agricultural income property and repeals the 70 acres and 150 percent rules and the NA-Z classification.
4. *An Act to require written statements to be filed concerning the leasing of agricultural land and to establish certain penalties.* The lessor or lessee of agricultural property would be required to file a statement outlining the lease payments and relevant provisions of any rental agreement related to agricultural property.
5. *An Act to permit adjustment for certain factors that may affect the agricultural income value of land.* When land is valued pursuant to the agricultural income approach, this proposal will permit the director of equalization to make adjustments for factors other than soil type.
6. *An Act to revise the method used to determine the capacity of land to produce agricultural products.* The director shall consider whether the land is tillable or nontillable when determining the capacity of land to produce.
7. *An Act to establish additional classifications for agricultural property.* The proposal creates subclasses of agricultural land based on the land meeting certain factors or being used for certain purposes.
8. *An Act to revise certain provisions concerning the determination of agricultural income values for classifying nonagricultural acreages.* Revise certain provisions concerning the NA-Z classification to correspond with the terminology used to determine agricultural income value.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met on June 9, August 16 and 17, and September 13 and 14. The committee meetings were located in Pierre.

Committee members were: Senator Dave Knudson, Chair; Representative Larry Rhoden, Vice-Chair; Senators Tom Dempster, Brock Greenfield, Frank Kloucek, Paul Symens, and Drue Vitter; and Representatives Daryl Christensen, Thomas Deadrick, Art Frysliie, Dale Hargens, Jim Hundstad, Jim Lintz, Casey Murschel, Jim Peterson, Lou Sebert, and Keri Weems.

Staff members were: Fred Baatz, Principal Research Analyst; Jim Fry, Director; and Kris Schneider, Legislative Secretary.

PUBLIC UNIVERSITY EDUCATION CURRICULA STUDY COMMITTEE

Study Assignment

A study and review of the coordination of undergraduate curricula at the public colleges of education relative to K-12 content standards.

Summary of Interim

The committee worked under the premise of ensuring the entities responsible for educating, regulating, licensing, and representing South Dakota teachers were working collaboratively to provide the best education to South Dakota's children. In gathering that information, many entities provided testimony on their role in producing effective and qualified teachers that would meet and exceed the No Child Left Behind (NCLB) Act requirements.

The Board of Regents explained that South Dakota has five public institutions with approved teacher programs – Black Hills State University (BHSU), Dakota State University (DSU), Northern State University (NSU), South Dakota State University (SDSU), and University of South Dakota (USD). The programs are approved by the South Dakota Board of Regents and by the National Council for Accreditation of Teacher Education (NCATE). There are thirty-five teacher programs throughout the regental system.

The committee learned that a good teacher isn't just "book smart", but must also be able to determine methods of teaching to different learning styles and have the ability to relate to children in the classroom. The Board of Regents uses many tools to determine if a prospective teacher will be an effective teacher. Among the assessment tools are the PRAXIS exam (a set of rigorous and carefully validated assessments that provides accurate, reliable information for use in making licensing decisions); and the pedagogical exam.

The Board of Regents maintains an on-going partnership with the South Dakota Board of Education, local teachers, and local schools for continuing professional development. There is also a great deal of work and cooperation between the Board of Regents and the Department of Education to ensure South Dakota teachers are receiving adequate training.

Dr. Rick Melmer, Secretary of the Department of Education (DOE), reviewed their responsibilities in approving and awarding teacher certification. The Department plays a vital role in providing professional development opportunities to all teachers--public, private and tribal.

Mr. Robert Whitehead, Executive Director of the South Dakota Education Association (SDEA), said that enhancing teacher programs, eliminating redundancy, and making sure teachers have the necessary tools to educate children are some of the responsibilities of the SDEA.

The committee's second meeting was two days and focused on teacher organizations and public testimony. Dr. Tom Hawley, Dakota State University, testified that the South Dakota Association of Colleges for Teacher Education (SDACTE) works closely with the South Dakota Education Association (SDEA) and other school organizations to ensure the administrative rules governing teacher preparation are meeting the requirement of No Child Left Behind (NCLB). SDACTE determines scoring on the state's teacher certification test and

works with the South Dakota Department of Education (DOE) and the Board of Regents on the Teacher Quality Enhancement project.

The committee heard public testimony from Mark DeVries, who is a parent of alternative school students. Alternative students must be tested, but the accepted testing instrument and testing environment vary among home and alternative schools. The committee asked if Mr. DeVries thought home and alternative school children should be required to be taught by a certified teacher, which is not the law currently. Mr. DeVries said his philosophy is that it is the state's responsibility to provide access to quality education; however, it is the parents' responsibility to determine which educational setting and what educator would be best for their child.

The third and final meeting was held in Pierre and focused on collaboration in the higher education system. Dr. Lesta Turchen, South Dakota Board of Regents, outlined the many ways the universities are working collaboratively on numerous programs. Black Hills State University (BHSU), South Dakota State University (SDSU) and the University of South Dakota (USD) all provide scientists and experts in the K-12 education field to work on the Science-on the Move Mobile Laboratory Project which travels to remote school districts and works directly with students for several days.

DSU and USD established a joint master's degree program in educational technology. Each university teaches two of the courses and share in teaching the fifth course. Northern State University (NSU) and BHSU created the associate degree program in paraprofessional education. A person can now become certified as a paraprofessional in a K-8 classroom in two semesters.

Chair Hunhoff distributed a survey conducted in September to gain information from teachers regarding their thoughts on whether they had received adequate preparation to properly teach children. Chair Hunhoff thought the comments were good and highlighted some trends. Time, money, and availability of courses were listed as obstacles in obtaining the "highly qualified" teacher status. More time is needed in college learning classroom and time management skills and discipline techniques. The survey can be found on the LRC website at <http://legis.state.sd.us/interim/2004/index.cfm>.

Listing of Legislation Adopted

No legislation was proposed by the committee. The Committee concluded that the present occurring processes were addressing the goals that were identified at the beginning of the study. There may be specific legislation brought forth by members of the Committee on selected topics discussed.

Summary of Meeting Dates and Listing of Committee Members

The committee met on June 21, August 9 and 10, and September 20, 2004. All meetings were in the State Capitol Building in Pierre.

Committee members included Representative Jean Hunhoff, Chair; Senator Marguerite Kleven, Vice Chair; Senators Jerry Apa, Robert Duxbury, and Clarence Kooistra; and Representatives Stanford Adelstein, Rebekah Craddock, Cooper Garnos, Alice McCoy, Ben Nesselhuf, Thomas Van Norman, Hal Wick, and Ron Williamson.

Staff members included Ann M. Mehlhaff, Principal Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

RETIREMENT LAWS COMMITTEE

Study Assignment

A continuing study of the pension, annuity, and benefit laws relating to employees and officers in public service.

Summary of Interim

The investment fund remains in good condition, despite the unfavorable market. Investment Officer Steve Myers reported that the plan had a positive return slightly above 8%, with a few weeks remaining in the fiscal year.

The SDRS staff reported the number of current members in the South Dakota Retirement System is above 65,000. There were over 17,000 retirees or benefit recipients who had received over \$200 million in benefit payments during fiscal year 2004. The total number of new benefits was 959, an increase of 2 percent, although staff expected the numbers to be significantly higher by the end of June.

The SDRS actuary reported that the system had an actuarial value funded ratio of 97 percent and a market value funded ratio of 99 percent, compared to the national survey average of 85 percent and 75 percent, respectively. SDRS ranked second nationally on a market value ratio basis, behind only the California UC System.

The actuary was asked to do an actuarial experience analysis at the December 2003 board meeting and reported that few assumptions needed further study. Melon and Associates reviewed economic, demographic, and "other" assumptions. They suggested further review in the areas of long term inflation rate assumptions; graded annual rates for retirement ages; and the age of benefit commencement for terminated vested members.

The FY2004 budget for the administration of the South Dakota Retirement System is proposed to grow by 1 percent over the previous fiscal year. The budget was submitted to the Governor for his approval and then will be proposed to the Legislature in January 2005.

Listing of Legislation Adopted

Even though the committee will not propose legislation, the SDRS notified members of possible legislation which would allow certain SDRS members who have been called to active duty in the military a chance to purchase service at the current reduced rate for a short period of time once they return from active duty.

Summary of Meeting Date & Place and Listing of Committee Members

The committee met one time jointly with the Board of Trustees of the South Dakota Retirement System, in Pierre at the Ramkota River Centre. The meeting was held on June 10, 2004.

Committee members were: Senator Kenneth D. Albers (Chair); Representative Matthew Michels (Vice Chair); Senators William Earley, Clarence Kooistra, Dan Sutton, and Paul Symens and Representatives Burt Elliott, Mel Olson, Tim Rounds, and Lou Sebert.

Staff members were Annie Mehlhaff, Principal Fiscal Analyst, and Reta Rodman, Legislative Secretary.

RULES REVIEW COMMITTEE

Study Assignment

A review of proposed state agency rules.

Summary of Interim

The Rules Review Committee reviewed 74 sets of rules up to this date in the interim. The committee has one additional meeting scheduled for December 7, 2004. The committee may hold an additional meeting immediately prior to the legislative session to review any rules that are pending before the legislative session begins. These two meetings will add approximately 10 to 15 sets of rules to the committee's total for rules reviewed.

The rules reviewed this year included many of the routine operations of state government that have been listed in previous reports such as speed zones, education updates, clarification of certain federal requirements regarding clean water and insurance related matters.

However, there were four items of note this year on the committee's agenda. The committee, working with the South Dakota Retailers and many of the executive branch agencies, finalized the content of the Small Business Impact Statement. This form reports the impact a set of rules may have on the operation of a small business. The committee reviewed and approved the rules regulating the Board of Regents Opportunity Scholarship Program. The committee referred the Office of Medical Services back for further consideration of its rules regulating cardiopulmonary directives for medical personnel. The Office of Medical Services may bring additional legislation this session to clarify certain signature requirements the Office administrative personnel believe are necessary for an effective form. The fourth set of rules that were noteworthy dealt with certain fee increases relating to the various hunting and fishing licenses administered by the Department of Game, Fish and Parks.

The committee has increased its scrutiny of any agency rules that propose to increase fees. The committee requires a thorough explanation of the agency's fiscal note, budget and need for the fee increase. After considerable discussion and two additional meetings the Department of Game, Fish and Parks proposed fee increases for certain licenses was approved.

Ultimately all rules presented to the committee were accepted.

Listing of Legislation Adopted

No legislation is proposed at this time.

Summary of Meeting Dates & Places and Listing of Committee Members

The Rules Review Committee met at the State Capitol in Pierre on the following dates: March 15, 2004; April 20, 2004; May 18, 2004; June 3, 2004; August 3, 2004; September 3, 2004; October 15, 2004; and November 17, 2004. The Committee is scheduled to meet on December 7, 2004. The committee may hold an additional meeting immediately prior to the legislative session to review any rules that are pending before the legislative session begins.

Committee members were Senator Royal "Mac" McCracken (Chair); Representative Jean Hunhoff (Vice-Chair); Senators Eric Bogue, and H. Paul Dennert; and Representatives Richard Engels and Orville Smidt.

STATE-TRIBAL RELATIONS COMMITTEE

Study Assignment

The State-Tribal Relations Study Committee selected its study topics for the 2004 Interim at its first meeting. The committee decided to address the issues related to the placement of land acquired by tribes into trust; health issues, particularly in the area of diabetes; issues related to South Dakota's voter identification law, and updates and testimony on child placement issues and corrections issues. The committee decided to hold at least one meeting on one of South Dakota's Indian reservations.

Summary of Interim

The State-Tribal Relations Study Committee is an ongoing interim committee that was created in statute (SDCL 2-6-20) in 1993 as a part of the state's reconciliation efforts. The committee, which generally does not propose legislation, provides a forum within state government for discussion by Indians and non-Indians of issues affecting the Native American community. The committee also serves as a way of familiarizing legislators with such issues.

The first meeting was held in the Capitol in Pierre on July 15, 2004, with the primary task of selecting study topics for the 2004 Interim. Unlike other interim committees, which are temporary and are established to study specific issues, the State-Tribal Relations Committee is ongoing and selects its own study topics at the beginning of the interim. Committee members, who are appointed for two-year terms, also select their own chair and vice chair. Representative Stanford Adelstein, Chair, and Senator Michael LaPointe, Vice Chair, were selected in 2003 and continued in those positions for the 2004 Interim. As noted above, the committee at the first meeting chose to study the transfer of land into trust, health and diabetes, and the voter identification law for the 2004 Interim. The committee also heard informational presentations by Mr. Roger Campbell, the Commissioner of the South Dakota Office of Tribal Government Relations; by Secretary of State Chris Nelson and former State Senator Thomas Shortbull, currently an advisor to the Federal Election Assistance Commission, on voter identification issues; by Doug Hofer of the Department of Game, Fish and Parks and Mr. Sonny Richards of the Lakota Sioux/Bear Butte Forum on issues related to the use and status of Bear Butte; and by Mr. Charlie Abourezk on the possibility of receiving medical assistance on South Dakota Indian reservations from groups in Italy.

At the second meeting, which was held on September 21, 2004, at the Rosebud Sioux Tribal Council Chambers in Rosebud, the committee heard a presentation by Mr. Steve Emery, Tribal Attorney for the Rosebud Sioux Tribe, on the acquisition of lands by tribes to be placed in trust. He also discussed the current status of the lawsuit between the State of South Dakota and the U.S. Department of Interior regarding the acquisition of land by the Lower Brule Sioux Tribe near Oacoma. The committee also heard public testimony on a variety of issues.

The committee's third meeting was held on December 6, 2004, in the Capitol in Pierre. Tribal Chairman Michael Jandreau of the Lower Brule Sioux Tribe and Mr. Eric Greenberg of Innovative Investments, San Francisco, California, discussed proposals and issues related to the development of wind energy on the Lower Brule Reservation and other areas of South Dakota. Chairman Jandreau and Mayor Dennis Eismach of Pierre discussed problems and issues created by the proposed expansion of the DME Railroad and negotiations between the

tribe and the city regarding a proposed railroad bypass around the city of Pierre, which would involve tribal lands. Secretary of State Chris Nelson discussed the 2004 elections and reported on how South Dakota's voter identification law was implemented. He noted that elections went smoothly and better than during the June primary elections and special House race. The committee rejected a proposed bill that would have revised the voter identification law to allow a person who is personally recognized by election officials but has no photo identification to vote. Dr. Jeffrey Henderson of the Black Hills Center for American Indian Health discussed Native American health issues and his organization's research activities, especially in the area of diabetes. The committee approved a resolution endorsing proposed medical assistance related to diabetes on Indian reservations from the Regional Government of Tuscany, Italy, and a possible cultural exchange program. The committee heard public testimony.

Listing of Legislation Adopted

None.

Summary of Meeting Dates & Places and Listing of Committee Members

The committee met in the State Capitol in Pierre on July 15, on the Rosebud Reservation on September 21, and again in the Capitol in Pierre on December 6, 2004.

Members of the committee included Representative. Stanford Adelstein (Chair) and Senator Michael LaPointe (Vice Chair); Senators Patricia de Hueck, Brock Greenfield, Gil Koetzle, and Sam Nachtigal; and Representatives Jim Bradford, Kent Juhnke, J.E. "Jim" Putnam, and Thomas Van Norman.

Committee staff members were Tom Magedanz, Principal Research Analyst; and Teri Retrum, Senior Legislative Secretary.